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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,165	07/02/2001	Peter Daute	H3722PCT/US	3060
23657	7590	04/30/2004	EXAMINER	
COGNIS CORPORATION PATENT DEPARTMENT 300 BROOKSIDE AVENUE AMBLER, PA 19002			SHOSHO, CALLIE E	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/807,165	Applicant(s) DAUTE ET AL.	
	Examiner Callie E. Shosho	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,8,9 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,8,9,11,12 and 15-25 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 6, 8-9, 11, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Dorfel et al. (U.S. 4,310,483).

The rejection is adequately set forth in paragraph 3 of the office action mailed 11/14/03 and is incorporated here by reference.

3. Claims 6, 8-9, 11-12, 15-19, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Carduck et al. (U.S. 5,318,733).

The rejection is adequately set forth in paragraph 4 of the office action mailed 2/28/03 and is incorporated here by reference.

4. Claims 6, 8-9, 11, 15-17, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Balliello et al. (U.S. 6,423,132).

The rejection is adequately set forth in paragraph 6 of the office action mailed 2/28/03 and is incorporated here by reference.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carduck et al. (U.S. 5,318,733) in view of Reynolds (U.S. 3,741,703).

The rejection is adequately set forth in paragraph 9 of the office action mailed 2/28/03 and is incorporated here by reference.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Balliello et al. (U.S. 6,423,132) in view of Reynolds (U.S. 3,741,703).

The rejection is adequately set forth in paragraph 10 of the office action mailed 2/28/03 and is incorporated here by reference.

Response to Arguments

8. Applicants' arguments filed 2/17/04 have been fully considered but they are not persuasive.

Specifically, applicants argue that none of the cited references disclose plastic additive as presently claimed.

With respect to Dorfel and Balliello et al., applicants argue that although each reference discloses use of pigment, neither Dorfel nor Balliello et al. disclose plastic additive as the term is defined by Applicants' specification.

However, it is noted that Dorfel refer to the pigment as a plastic additive (abstract, col.1, lines 4-6, claims) as does Balliello et al. (col.1, lines 59-60 and col.16, lines 43-46). Further, with the exception of present claims 12 and 13, the present claims only require the use of plastic additive. There is nothing in the present claims which excludes the use of plastic additive which is pigment.

Applicants point to page 4, lines 19-25 of present specification and note that this portion of the specification defines the claimed plastic additive and that the definition does not include pigment.

It is agreed that there is no explicit disclose in the present specification that the phrase “plastic additive” includes pigments. However, firstly, it is noted that page 4, lines 19-21 of the present specification disclose that the plastic additives “may be selected basically as required from the additives known to the relevant expert for the processing of thermoplastics” which is followed by examples of plastic additives. As set forth in both Dorfel and Balliello et al., pigments are known plastic additives for thermoplastics. Further, the list of plastic additives on page 4, lines 21-24 of the present specification are merely examples of plastic additives. These examples do no limit the definition of plastic additives to these few exemplifications especially in light of the disclosure in page 4, lines 19-21 as discussed above. Thus, it is the examiner’s position that pigments do meet the definition of the presently claimed “plastic additive”.

With respect to Carduck et al., applicants argue that the lubricant of Carduck et al. is not a plastic additive and point to col.3, lines 47-57 of Carduck et al. which states that lubricants

utilized in the granules of Carduck et al. are “any of the numerous types of nonionic surfactants typically used in detergents” as evidence to support this position.

However, although Carduck et al. refer to the lubricant as those used in detergent, this does not exclude such lubricant from also functioning as a plastic additive as presently claimed. Further, regardless of what the lubricant is called, the fact remains that the present claims require plastic additives including lubricant. Given that Carduck et al. disclose lubricant, it is clear, absent evidence to the contrary, Carduck et al. meet the requirements of the present claims. Additionally, while there is no disclosure in Carduck et al. that the granule is used in plastic composition, it is noted that Carduck et al. is only utilized against claims which require granule plastic additive or method of making granular composition containing such granules. These claims only require plastic additive. Given that plastic additives as claimed include lubricants and Carduck et al. disclose lubricant, it is the examiner's position that Carduck et al. meets the requirements of the present claims.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 571-272-1123. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Callie E. Shosho
Primary Examiner
Art Unit 1714

CS
4/29/04